



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,052	08/06/2001	Masafumi Maekawa	FUJI 18.898	9865

26304 7590 10/21/2004

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER

TRUONG, CAMQUY

ART UNIT	PAPER NUMBER
----------	--------------

2127

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/923,052	Applicant(s) MAEKAWA ET AL.	
	Examiner Camquy Truong	Art Unit 2127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/9/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-10 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title is imprecise.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - A. The claim language in the following claims is not clearly understood:
 - i. As to claim 1-10, the lack and, in many cases, misuse of punctuation makes it very difficult to determine exactly which units are connected to which units and which units perform which functions.
 - i. As to claim 1, line 3, it is uncertain whether “ the hardware resources” refer to hardware resource above and it is not clearly indicate the hardware resources is refer to plurality or only one; line 4, it is not clearly understood who obtained the resources and are the resources assigned before? ; line 8, it is not clearly understood what is

identical with what (i.e. use rate, the hardware resources, a resources usage or a hardware resource obtaining request); line 9, is not clearly indicate what exceeds a predetermined threshold (i.e. use rate, the hardware resources, a resources usage or a hardware resource obtaining request)

ii. As to claim 2, lines 3-7, it is not clearly understood which parts are comparing to each other (i.e. predetermined threshold, use rate or hardware resources), and which part is identical with which part (predetermined threshold, use rate or hardware resources or hardware resource obtaining request).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brouwer (U.S. Patent 6,760,303 B1).

7. As to claims 1, 7 and 10, Brouwer teaches the invention substantially as claimed including: A method for obtaining resource (col. 6, lines 48-51; col. 7, lines 8-14), said method comprising the steps of:

Obtaining one of the resources in a system, which resources have not been obtained, for a resource usage of a resource obtaining request, when each use rate of the resources, which have been obtained and which resource usages are identical with that of the resource obtaining request, exceeds a predetermined threshold (col. 6, lines 48-51; col. 7, lines 8-14 and lines 49-52),

Whereby one of resources in the system is obtained based on the resource usage indicated by the resource obtaining request every time the resource obtaining request occur (col. 7, lines 6-21).

8. Brouwer does not explicitly teach the resource is the hardware resource. However, Brouwer teaches that his resource is the channel (col. 6, lines 40-48; col. 7, lines 1-2). It would have been obvious to one of ordinary skill in the art at the time the invention was made that Brouwer's system channel was in fact a hardware resource as claimed because the hardware resource would enables the system to conserve resources and overhead, and better reflect actual network condition.

9. As to claim 2, it is rejected for the same reason as claim 1. In addition, Brouwer teaches a comparing part comparing a predetermined threshold with

each use rate of resources, which have been obtained and which resource usages are identical with that of a resource obtaining request (col. 7, lines 24-37).

10. As to claim 3, Brouwer teaches a securing part secure some of the resources so as to obtain at least one of the resources for each of a plurality of resource usages (col. 7, lines 3-15).

11. As to claim 4, Brouwer teaches an obtaining –to-use part obtaining a part of an unused area of the resources that have been obtained in a condition in which each resource usage of the resources is identical with that of said resource obtaining request and each use rate of the resources exceeds the predetermined threshold (col. 4, lines 25-33; col. 6, lines 47-52; col. 7, lines 29-31 and lines 49-52).

12. As to claims 5 and 8, Brouwer teaches a threshold setting part dynamically setting a threshold of said each resource usage based on the use rate of said each resources usage of the resource in the system (col. 7, lines 25-31; col. 8, lines 6-10).

13. As to claim 6, Brouwer teaches a given threshold setting part setting a given threshold to the threshold of said each resource to the threshold of said each resource usage of the resources in the system (col. 4, lines 37-39).

14. As to claim 9, Brouwer teaches a priority setting part setting a priority of each resource usage based on the use rate of said each resource usage of each the resources in the system (col. 11, lines 26-28).

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camquy Truong whose telephone number is (571) 272-3773. The examiner can normally be reached on 8AM – 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3756.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you


Application/Control Number: 09/923,052

Art Unit 2127

have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Camquy Truong

September 27, 2004


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100